

COMMUNITY DEVELOPMENT AUTHORITY OF THE CITY OF MADISON, WISCONSIN

Resolution No. 4138

Authorizing the CDA to enter into a lease with Community GroundWorks, Inc. for various community garden sites on CDA-owned land.

Presented July 9, 2015
Referred _____
Reported Back _____
Adopted July 9, 2015
Placed on File _____
Moved By Daniel Guerra
Seconded By Sara Eskrich
Yeas 7 Nays 0 Absent 0
Rules Suspended _____

WHEREAS, from 2000 until December 31, 2014, Community Action Coalition for Southern Wisconsin, Inc. (“CAC”) leased from the Community Development Authority of the City of Madison (“CDA”) land for community garden sites located at 2009-2015 Baird Street (the “Baird-Fisher Garden Area”) and 3538 Straubel Street (the “Truax Park Garden Area”) ; and

WHEREAS, the leases between CAC and the CDA were terminated effective December 31, 2014; and

WHEREAS, the CDA desires to enter into a new lease for these community garden sites; and

WHEREAS, Community GroundWorks, Inc. (“CGW”) is under contract with the City of Madison to be the primary administrator of community gardens programming, including providing staff time and general leadership to the daily operations of the program, and to provide programming specifically to gardens within low and moderate income areas; and

WHEREAS, one of the important roles of CGW in the new programming is to serve as the lease and insurance holder for all gardens on CDA-owned land to ensure the security of said lands; and

WHEREAS, the CDA and CGW have negotiated terms and conditions for a new lease for the Baird-Fisher Garden Area, the Truax Park Garden Area, as well as the existing community garden located at 755 Braxton Place, which was previously managed by the CDA (the “Triangle Site Garden Area”).

NOW, THEREFORE, BE IT RESOLVED that the Community Development Authority of the City of Madison hereby authorizes the execution of a lease (“Lease”) between the CDA and CGW on the following general terms and conditions:

- 1. Leased Premises: The existing community garden areas located at 2009-2015 Baird Street (the “Baird-Fisher Garden Area”), 3538 Straubel Street (the Truax Park Garden Area), and 755 Braxton Place (the “Triangle Site Garden Area”). The foregoing are hereinafter referred to individually as a “Garden Area” and collectively as the “Leased Premises.” The Leased Premises are described on attached Exhibit A and depicted on Exhibit C.
- 2. Landlord: Community Development Authority of the City of Madison (“CDA”)
- 3. Tenant: Community GroundWorks, Inc. (“CGW”)
- 4. Use: CGW’s use of the Leased Premises shall be community gardening activities. Such use shall be in accordance with the General Conditions

listed in Paragraph 11 below as well as the Special Conditions set forth in attached Exhibit B.

5. Initial Term: Five (5) years, for the period January 1, 2015 through December 31, 2019.
6. Rental Rate: CGW shall pay annual rent of \$1.00 to the CDA.
7. Renewal Option: The Lease will renew upon the mutual written agreement of CGW and the CDA. CGW shall provide the CDA written notice of its intent to renew the Lease no later than six (6) months prior to the expiration of the initial Lease term.
8. Utilities: CGW shall pay all charges for sewer, water, stormwater, electricity and gas utility services used in or supplied to the Leased Premises.
9. Assignment and Subletting: CGW shall not assign its interest in the Lease without the CDA's prior written consent, which consent the CDA may withhold in its sole discretion. CGW may sublease individual garden plots within the Leased Premises to the public for non-commercial use only, subject to the conditions and requirements in the Lease.
10. Maintenance:
 - a. CGW shall, at CGW's cost, keep and maintain the Leased Premises in a presentable condition consistent with good business practice and in a manner consistent with the preservation and protection of the general appearance and value of other premises in the immediate vicinity. Maintenance responsibilities include, but shall not be limited to, any mowing, tilling, and removal of garbage and debris. No storage of materials, equipment or vehicles is permitted on the Leased Premises, except the temporary and orderly placement of items in conjunction with gardening activities.
 - b. CGW shall maintain on an ongoing basis any fenced-in areas and shall maintain a two foot area (2) on either side of each Garden Area perimeter. CGW, at CGW's cost, shall be responsible for mowing between plant rows and the elimination of weeds within two feet (2) on either side of the fences. CGW shall ensure that mowing and weeding takes place frequently enough so that grass will be no higher than six inches (6") and the fences will remain weed-free.
 - c. If CGW does not comply with any part of this section as determined solely by the CDA, upon written notice CGW shall have fourteen (14) days to cure the defect. Thereafter, the CDA, at its option, shall have the right to extend the time to cure or to have the defect corrected at CGW's expense.
11. General Conditions:
 - a. Any chemical agent, insecticide, fertilizer, or other additive proposed to be used by CGW or its sublessees must meet or exceed all federal, State, and local laws, regulations, guidelines,

and limitations (including prohibitions) for its use. The CDA reserves the right to restrict or ban the use of any chemical agent, insecticide, fertilizer or additive on the Leased Premises.

- b. No additional improvements shall be made upon a Garden Area, including fencing, bulletin boards, and landscaping without the specific written permission of the Housing Unit Director of the CDA. The CDA specifically reserves the right to require additional insurance and/or performance bonds in the event of planned improvements to any Garden Area.
- c. CGW agrees to remove all garden refuse (i.e., stakes, flags, debris, etc.) and to mow and/or remove all dead plant material from the Leased Premises after the growing season, but no later than November 15 of each year the Lease is in effect. Notwithstanding the foregoing, during the first year of the Lease CGW shall not be required to mow perennial or biennial plants after the growing season but rather may mulch or cover such plants so that they may be carried over into the next growing season. The CDA reserves the right, in its sole discretion, to disallow this practice at any time after the first year of the Lease upon written notice to CGW.
- d. CGW shall submit a written report providing names and addresses of the individuals utilizing and participating in each Garden Area to the applicable CDA Housing Site Manager by October 1 of each year during the term of the Lease.
- e. There shall be no expansion of any Garden Area or location unless there is mutual written agreement of CGW and CDA regarding any changes in size or location.
- f. Responsibilities.
 - (1) CDA's Responsibilities.
 - i. The CDA shall provide the land for the Garden Areas.
 - ii. The CDA shall provide general maintenance to the property surrounding the Garden Areas, up to a two foot (2) perimeter outside any fence or Garden Area perimeter, but not including: maintenance within any fenced area or Garden Area perimeter, nor weeding on either side of any fence or Garden Area perimeter.
 - (2) CGW's Responsibilities.
 - i. CGW shall pay all costs associated with operating and maintaining each Garden Area.
 - ii. CGW shall be responsible for project planning, site design and site preparation, site assignments, soil testing, plowing, discing, composting, and plot layout. In addition, CGW shall provide educational support, advice

and technical assistance on all aspects of the project, including insurance and fundraising.

- iii. In recruiting participants and assigning garden plots, CGW shall give preference to CDA residents, with any unassigned plots made available to other neighborhood residents.

12. Indemnification:

CGW shall be liable to and agree to indemnify, defend and hold harmless the CDA, the City of Madison, and their officers, officials, agents, and employees, against all loss or expense (including liability costs and attorney's fees) by reason of any claim or suit, or of liability imposed by law upon the CDA, the City of Madison, or their officers, officials, agents or employees for damages because of bodily injury, including death at any time resulting therefrom, sustained by any person or persons or on account of damages to property, including loss of use thereof, arising from, in connection with, caused by or resulting from the acts or omissions of CGW or its officers, officials, agents, employees, assigns, guests, invitees, sublessees or subcontractors, in the performance of the Lease, whether caused by or contributed to by the negligence of the CDA, the City of Madison, or their officers, officials, agents, or employees.

13. Insurance:

CGW shall carry commercial general liability insurance covering as insured CGW and naming the CDA and the City of Madison, their officers, officials, agents and employees as additional insureds, with a minimum limit of \$1,000,000 per occurrence as may be adjusted, from time to time, by the City of Madison's Risk Manager. The policy shall also be endorsed for contractual liability in the same amount, apply on a primary and noncontributory basis, and provide the CDA thirty (30) days advance written notice of cancellation, non-renewal or material changes to the policy during the term of the Lease. As evidence of this coverage, CGW shall furnish the CDA with a certificate of insurance on a form approved by the City of Madison, and, if requested by the City of Madison Risk Manager, CGW shall also provide copies of additional insured endorsements or policy. If the coverage required above expires while the Lease is in effect, CGW shall provide a renewal certificate to the CDA for approval.

14. Termination:

- a. The CDA shall have the right to terminate the Lease in the event CGW defaults under the Lease and such default is not cured within thirty (30) days following written notice from the CDA.
- b. The CDA shall have the right to terminate the Lease at its sole discretion upon 180 days written notice to CGW.
- c. CGW shall have the right to terminate the Lease at its sole discretion upon 60 days written notice to the CDA.

BE IT STILL FURTHER RESOLVED that the Chair and Executive Director and Secretary of the CDA are hereby authorized to execute, deliver and record the Lease and to take such other actions as shall be necessary or desirable to accomplish the purposes of this Resolution.